



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Trademark Petitions

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0061 (Trademark Petitions). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include “0651-0061 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8946; or by email to Catherine.Cain@uspto.gov with “0651-0061 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. § 1051 et seq., which provides for the registration of trademarks, service marks, collective trademarks and collective service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

This information collection covers various trademark related communications to the USPTO, including letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore a filing date, and requests for reinstatement. The information is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. Information relating to the registration of a trademark is made available to the public by the USPTO. However, the release of information in a letter of protest is controlled and may be available only upon request.

A letter of protest is a procedure whereby third parties who object to the registration of a mark in a pending application may bring to the attention of the USPTO evidence bearing on the registrability of the mark. A letter of protest must identify the application

being protested and the proposed grounds for refusing registration and include relevant evidence to support the protest.

A request to make special may be submitted where an applicant requests that initial examination of an application be advanced out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration.

A response to a petition inquiry letter is submitted by a petitioner who is responding to a notice of deficiency that the USPTO issued after receiving an incomplete petition to the Director. A petition may be considered incomplete if, for example, it does not include the fee required by 37 CFR 2.6 or if it includes an unverified assertion that is not supported by evidence.

The USPTO generally examines applications in the order in which they are received. A petition to make special is a request by the applicant to advance the initial examination of an application out of its regular order.

A request to restore a filing date is submitted by an applicant who previously filed an application that was denied a filing date. The request must include evidence showing that the applicant is entitled to the earlier filing date.

If an applicant has proof that an application was abandoned due to a USPTO error, an applicant may file a request to reinstate the application instead of a petition to revive. To support such a request, the applicant must include evidence of the USPTO error.

II. Method of Collection

Items in this information collection must be submitted via online electronic submissions through the Trademark Electronic Application System (TEAS). In limited circumstances, applicants may also be permitted to submit the information in paper form by mail or hand delivery.

III. Data

OMB Control Number: 0651-0061.

Form Numbers:

- PTO 2303 (Letter of Protest)
- PTO 2304 (Request to Make Special)
- PTO 2305 (Response to Petition to Director Inquiry Letter)
- PTO 2306 (Petition to Make Special)
- PTO 2307 (Request to Restore Filing Date)
- PTO 2308 (Request for Reinstatement)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Estimated Number of Respondents: 6,221 respondents per year.

Estimated Number of Responses: 6,221 responses per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 40 minutes (0.67 hours) to 90 minutes (1.25 hours), to complete a response, depending on the complexity of the situation. This includes the time to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 6,953 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$2,781,200.

Table 1: Total Hourly Burden for Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Letter of Protest (TEAS) PTO/2303	3,683	3,683	1.25 (75 minutes)	4,604	\$400	\$1,841,600
2	Request to Make Special (TEAS) PTO/2304	175	175	0.67 (40 minutes)	117	\$400	\$46,800

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

3	Response to Petition to Director Inquiry Letter (TEAS) PTO/2305	321	321	0.83 (50 minutes)	266	\$400	\$106,400
4	Petition to Make Special (TEAS) PTO/2306	523	523	0.67 (40 minutes)	350	\$400	\$140,000
5	Request to Restore Filing Date (TEAS) PTO/2307	13	13	0.67 (40 minutes)	9	\$400	\$3,600
6	Request for Reinstatement (TEAS) PTO/2308	263	263	0.83 (50 minutes)	218	\$400	\$87,200
	Total	4,978	4,978	- - -	5,564	- - -	\$2,225,600

Table 2: Total Hourly Burden For Individuals or Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Letter of Protest (TEAS) PTO/2303	920	920	1.25 (75 minutes)	1150	\$400	\$460,000
2	Request to Make Special (TEAS) PTO/2304	44	44	0.67 (40 minutes)	29	\$400	\$11,600
3	Response to Petition to Director Inquiry Letter (TEAS) PTO/2305	80	80	0.83 (50 minutes)	66	\$400	\$26,400
4	Petition to Make Special (TEAS) PTO/2306	131	131	0.67 (40 minutes)	88	\$400	\$35,200
5	Request to Restore Filing Date (TEAS) PTO/2307	3	3	0.67 (40 minutes)	2	\$400	\$800
6	Request for Reinstatement (TEAS) PTO/2308	65	65	0.83 (50 minutes)	54	\$400	\$21,600
	Total	1,243	1,243	- - -	1,389	- - -	\$555,600

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$328,390. This information collection has no capital start-up, maintenance, or operating fees. However, this information collection does have filing fees (\$328,350) and postage costs (\$40).

Filing Fees

Table 3: Filing Fees (Non-hour) Cost Burden for Trademark Petitions

Item No.	Item	Estimated Annual Responses	Estimated Cost	Estimated Non-Hour Cost Burden
		(a)	(b)	(a) x (b) = (c)
1	Letter of Protest (TEAS)	4,603	\$50	\$230,150
4	Petition to Make Special (TEAS)	653	\$150	\$97,950

² 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Item No.	Item	Estimated Annual Responses (a)	Estimated Cost (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
4	Petition to Make Special (Paper)	1	\$250	\$250
Total		- - -	- - -	\$328,350

Postage Cost

Although the USPTO requires that the items in this information collection be submitted electronically, the items may, in limited situations, be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that the average first-class postage cost for a mailed submission will be \$8.05 and that approximately 5 submissions may be mailed to the USPTO, for a total postage cost of \$40 per year.

Respondent's Obligation: Required to obtain or retain benefits.

IV. Request for Comments

The USPTO is soliciting public comments to:

- a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility;
- b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- c) Enhance the quality, utility, and clarity of the information to be collected; and
- d) Minimize the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record.

The USPTO will include or summarize each comment in the request to OMB to approve

this information collection. Before including an address, phone number, email address, or other personal identifying information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,
Information Collections Officer,
Office of the Chief Administrative Officer,
United States Patent and Trademark Office.

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